

JUL 30 2008

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANTONIO MARCOS-MORA, aka Jose  
Quintero-Arias,

Defendant - Appellant.

No. 07-30171

D.C. No. CR-06-02141-RHW

MEMORANDUM \*

Appeal from the United States District Court  
for the Eastern District of Washington  
Robert H. Whaley, District Judge, Presiding

Submitted July 22, 2008 \*\*

Before: B. FLETCHER, THOMAS, and WARDLAW, Circuit Judges.

Antonio Marcos-Mora appeals from the 77-month sentence imposed  
following his guilty-plea conviction for being an alien in the United States after

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\* This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

deportation, in violation of 8 U.S.C. § 1326. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Marcos-Mora contends that the district court violated Federal Rule of Criminal Procedure 32(h) by failing to give adequate notice of its intent to depart upward from the Sentencing Guidelines range. Marcos-Mora's contention fails as the district court did not plainly err in failing to provide notice before imposing the sentence. *See Irizarry v. United States*, 128 S. Ct. 2198, 2202-04 (2008).

**AFFIRMED.**